

ESTTA Tracking number: **ESTTA456173**

Filing date: **02/13/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Levi Strauss & Co.
Granted to Date of previous extension	02/12/2012
Address	1155 Battery St. San Francisco, CA 94111 UNITED STATES

Attorney information	Marie C. Seibel, Esq. Kilpatrick Townsend & Stockton LLP 2 Embarcadero Center, 8th Floor San Francisco, CA 94111 UNITED STATES mseibel@kilpatricktownsend.com, jtipton@kilpatricktownsend.com, choffman@kilpatricktownsend.com
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### Applicant Information

Application No	85313085	Publication date	08/16/2011
Opposition Filing Date	02/13/2012	Opposition Period Ends	02/12/2012
Applicant	New Life Shoes, LLC 501 Soledad San Antonio, TX 78205 UNITED STATES		

### Goods/Services Affected by Opposition

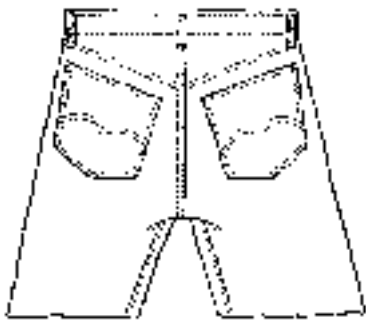
Class 025. All goods and services in the class are opposed, namely: Footwear
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### Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)


### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	404248	Application Date	09/25/1942
Registration Date	11/16/1943	Foreign Priority Date	NONE
Word Mark	NONE		

Design Mark	
Description of Mark	The trade-mark consists of double arcuate designs of orange color displayed on the hip pockets of the overalls as shown on the drawing. The mark is applied to the overalls by stitching the double arcuate designs on the hip pockets with orange colored thread, or by painting the lines of said design on the hip pockets with orange colored paint.
Goods/Services	Class U039 (International Class 025). First use: First Use: 1873/00/00 First Use In Commerce: 1873/00/00 Waistband Type Overalls

U.S. Registration No.	1139254	Application Date	05/08/1978
Registration Date	09/02/1980	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1873/00/00 First Use In Commerce: 1873/00/00 PANTS, JACKETS, SKIRTS, AND SHORTS		

U.S. Registration No.	2794649	Application Date	07/10/2002
Registration Date	12/16/2003	Foreign Priority Date	NONE
Word Mark	NONE		

Design Mark	
Description of Mark	The mark consists of a double arcuate design.
Goods/Services	Class 025. First use: First Use: 1873/00/00 First Use In Commerce: 1873/00/00 Pants, jeans, shorts, [ shirts, t-shirts, blouses, ] skirts and jackets

Attachments	71455769#TMSN.gif ( 1 page )( bytes ) 73169399#TMSN.gif ( 1 page )( bytes ) 78142765#TMSN.gif ( 1 page )( bytes ) 89070-821766_NOTICE_OPP.pdf ( 19 pages )(124345 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Marie C. Seibel/
Name	Marie C. Seibel, Esq.
Date	02/13/2012

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

*In re* Application No. 85/313,085

Filed: May 5, 2011

Published: August 16, 2011, in the *Official Gazette*

For: **Design**

LEVI STRAUSS & CO.,

Opposer,

vs.

NEW LIFE SHOES, INC.,

Applicant.

Opposition No. \_\_\_\_\_

**NOTICE OF OPPOSITION**

**UNITED STATES PATENT AND TRADEMARK OFFICE**

Trademark Trial and Appeal Board

P.O. Box 1451

Alexandria, Virginia 22313-1451

Dear Madam:

Levi Strauss & Co. (“Opposer” or “LS&Co.”) believes it will be damaged by the registration of the mark illustrated in and covered by Application Serial No. 85/313,085, filed on May 5, 2011, by New Life Shoes, Inc. (“Applicant” or “New Life”), and hereby opposes such registration.

LS&Co. is a Delaware corporation with its headquarters and principal place of business at Levi’s Plaza, 1155 Battery Street, San Francisco, California 94111. Applicant is, upon information and belief, a limited liability company with its principal place of business at 501 Soledad, San Antonio, TX 78205. This Notice of Opposition has been timely filed. As grounds of opposition, LS&Co. alleges as follows:

Notice of Opposition  
Application No. 85/313,085

1. As illustrated in the Official Gazette dated August 16, 2011, Applicant seeks to register the design mark that is the subject of Application Serial No. 85/313,085 (“New Life Arcuate Design”) in International Class 25 for clothing, namely, footwear.

2. LS&Co. is the owner of the distinctive Arcuate Stitching Design Trademark (hereinafter the “Arcuate Trademark”), as reflected in the following representative registrations issued on the Principal Register, which are in full force and effect:

<u>Registration No.</u>	<u>Registration Date</u>
404,248	November 16, 1943
1,139,254	September 2, 1980
2,794,649	December 16, 2003

Since at least as early as 1873, LS&Co. has continuously used its Arcuate Trademark on a variety of goods, including, but not limited to, jeans, pants, jackets, shorts and skirts. LS&Co.’s dates of adoption and first use of its Arcuate Trademark long precede the date of Applicant’s first use, if any.

3. Since adoption and first use of LS&Co.’s Arcuate Trademark, LS&Co. continuously has marketed and is presently marketing its goods nationwide. LS&Co. has expended and continues to expend substantial time, money, and effort in promoting its Arcuate Trademark to identify LS&Co. as the source of the goods displaying that trademark. As a result, LS&Co.’s goods are identified as originating from LS&Co. through the display of the Arcuate Trademark, and the public recognizes LS&Co. as the source of goods displaying the mark.

4. By virtue of its long use and promotion of the Arcuate Trademark, LS&Co. has gained a valuable reputation for the mark and has developed exceedingly valuable goodwill in the mark.

5. Registration of the New Life Arcuate Design mark will lead the public to conclude, incorrectly, that Applicant is or has been, and Applicant's goods displaying the mark are or have been, authorized, sponsored, or licensed by LS&Co. Issuance of any registration to Applicant for the New Life Arcuate Design mark at issue is therefore contrary to the provisions of 15 U.S.C. § 1052(a) and will result in damage to LS&Co. and the public.

6. Applicant's mark is deceptively similar to LS&Co.'s Arcuate Trademark, so as to cause confusion, or to cause mistake or to deceive the public as to the origin of Applicant's goods, to the harm and damage of LS&Co. and the public. Therefore, registration of Applicant's mark is prohibited by 15 U.S.C. § 1052(d).

7. LS&Co.'s Arcuate Trademark is distinctive and famous within the meaning of 15 U.S.C. § 1125(c), and was famous before Applicant filed the Application at issue and before Applicant allegedly began use of the New Life Arcuate Design mark. The applied-for New Life Arcuate Design mark has caused or is likely to cause dilution of the distinctive quality of LS&Co.'s Arcuate Trademark, in violation of 15 U.S.C. § 1125(c), to the harm and damage of LS&Co. and the public. Therefore, registration of the applied-for New Life Arcuate Design mark may be refused under 15 U.S.C. §§ 1052 and 1063(a).

8. Registration of the applied-for New Life Arcuate Design mark would constitute prima facie evidence of the validity of such registration, Applicant's ownership of the mark, and Applicant's exclusive right to use the mark pursuant to the provisions of 15 U.S.C. § 1057(b).

Notice of Opposition  
Application No. 85/313,085

LS&Co. and the public would be harmed as a result. Such registration would be a source of damage and injury to LS&Co. and the public, and would be contrary to the principles of registration set out in 15 U.S.C. §§ 1051 *et seq.*

WHEREFORE, LS&Co. prays that this Opposition be sustained, and that registration to Applicant for the New Life Arcuate Design mark illustrated in and covered by Application Serial No. 85/313,085 be denied.

Please direct all notices, pleadings and process regarding this matter to:

Marie C. Seibel, Esq.  
Kilpatrick Townsend & Stockton LLP  
Two Embarcadero Center, 8th Floor  
San Francisco, CA 94111-3834  
Telephone: (415) 576-0200  
Facsimile: (415) 576-0300  
Email: mseibel@kilpatricktownsend.com  
jtipton@kilpatricktownsend.com  
choffman@kilpatricktownsend.com

Respectfully submitted,

KILPATRICK TOWNSEND & STOCKTON LLP

Dated: February 13, 2012

By: /Marie C. Seibel/  
Marie C. Seibel  
*Attorneys for Opposer*  
*Levi Strauss & Co.*

Kilpatrick Townsend & Stockton LLP  
Two Embarcadero Center, 8th Floor  
San Francisco, CA 94111-3834  
Telephone: (415) 576-0200  
Facsimile: (415) 576-0300

**CERTIFICATE OF SERVICE**

I hereby certify that on February 13, 2012, I served the foregoing **NOTICE OF OPPOSITION** on the parties in said action by depositing a true copy thereof with the United States Postal Service as first class mail, postage prepaid, at San Francisco, California, enclosed in a sealed envelope addressed as follows:

Mark A. Kammer  
Kammer Browning PLLC  
7700 Broadway St Ste 202  
San Antonio, TX 78209-3260

Dated: February 13, 2012

By: /Christiana Hoffman/  
Christiana Hoffman

63971921 v1



# EXHIBIT A

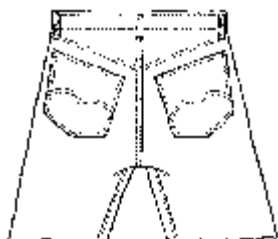
Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2012-02-13 14:53:32 ET

Serial Number: 71455769 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 404248

**Mark**



Standard Character claim: No

Current Status: [The registration has been renewed](#).

Date of Status: 2004-12-28

Filing Date: 1942-09-25

Transformed into a National Application: No

Registration Date: 1943-11-16

Register: [Principal](#)

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)

Current Location: 40S -Scanning On Demand

Date In Location: 2011-08-15

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

1. [Levi Strauss & Co.](#)

**Address:**

[Levi Strauss & Co.](#)  
[1155 BATTERY STREET](#)  
[San Francisco, CA 94111](#)  
[United States](#)

**Legal Entity Type:** [Corporation](#)

**State or Country of Incorporation:** [Delaware](#)

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**GOODS AND/OR SERVICES**

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**U.S. Class:** [039 \(International Class 025\)](#)  
**Class Status:** [Active](#)  
[Waistband Type Overalls](#)  
**Basis:** [1\(a\)](#)  
**First Use Date:** [1873-00-00](#)  
**First Use in Commerce Date:** [1873-00-00](#)

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**ADDITIONAL INFORMATION**

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**Disclaimer:** [No claim is made to the exclusive use of the representation of a pair of overalls.](#)

**Description of Mark:** [The trade-mark consists of double arcuate designs of orange color displayed on the hip pockets of the overalls as shown on the drawing. The mark is applied to the overalls by stitching the double arcuate designs on the hip pockets with orange colored thread, or by painting the lines of said design on the hip pockets with orange colored paint.](#)

**Design Search Code(s):**  
[09.03.02](#) - [Coveralls; Exercise clothes, shorts; Gym shorts; Jeans; Knickers; Overalls; Pants; Shorts; Slacks; Sweatpants; Trousers](#)  
[26.15.16](#) - [Polygons touching or intersecting](#)

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**MADRID PROTOCOL INFORMATION**

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[\(NOT AVAILABLE\)](#)

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**PROSECUTION HISTORY**

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**NOTE:** [To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.](#)

- [2012-01-26 - Notice Of Suit](#)
- [2012-01-25 - Notice Of Suit](#)
- [2011-10-05 - Assignment Of Ownership Not Updated Automatically](#)
- [2011-08-17 - Notice Of Suit](#)
- [2011-08-15 - Case File In TICSRS](#)
- [2011-07-29 - Case File In TICSRS](#)
- [2011-05-02 - Notice Of Suit](#)
- [2011-05-02 - Notice Of Suit](#)

2011-03-17 - Notice Of Suit

2011-01-14 - Notice Of Suit

2010-12-21 - Notice Of Suit

2010-08-20 - Notice Of Suit

2010-08-16 - Notice Of Suit

2010-06-29 - Notice Of Suit

2010-06-22 - Notice Of Suit

2010-06-09 - Notice Of Suit

2009-09-01 - Notice Of Suit

2008-08-04 - Notice Of Suit

2008-05-30 - Notice Of Suit

2007-04-24 - Notice Of Suit

2004-12-28 - Third renewal 10 year

2004-12-28 - Section 8 (10-year) accepted/ Section 9 granted

2004-12-27 - REINSTATED

2004-08-21 - Canceled Section 8 (10-year)/Expired Section 9

2003-11-11 - Combined Section 8 (10-year)/Section 9 filed

2003-11-11 - TEAS Section 8 & 9 Received

1984-10-25 - Section 8 (6-year) accepted & Section 15 acknowledged

1983-11-16 - Second renewal

1983-12-20 - Second renewal

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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Correspondent**

JENNIFER GUNN  
LEVI STRAUSS & CO.  
1155 BATTERY STREET  
SAN FRANCISCO, CA 94111

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# EXHIBIT B

Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2012-02-13 14:54:24 ET

Serial Number: 73169399 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 1139254

Mark



Standard Character claim: No

Current Status: [The registration has been renewed](#).

Date of Status: 2010-09-02

Filing Date: 1978-05-08

Transformed into a National Application: No

Registration Date: 1980-09-02

Register: [Principal](#)

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)

Current Location: (NOT AVAILABLE)

Date In Location: 2010-09-02

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#### LAST APPLICANT(S)/OWNER(S) OF RECORD

---

1. [LEVI STRAUSS & CO.](#)

Address:

[LEVI STRAUSS & CO.](#)  
[TWO EMBARCADERO CTR.](#)  
[SAN FRANCISCO, CA 94106](#)  
[United States](#)

Legal Entity Type: [Corporation](#)

State or Country of Incorporation: [Delaware](#)

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GOODS AND/OR SERVICES

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International Class: [025](#)  
Class Status: [Active](#)  
[PANTS, JACKETS, SKIRTS, AND SHORTS](#)  
Basis: [1\(a\)](#)  
First Use Date: [1873-00-00](#)  
First Use in Commerce Date: [1873-00-00](#)

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ADDITIONAL INFORMATION

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Design Search Code(s):  
[09.01.02](#) - Embroidery; Labels, clothing; Stitching, not on clothing pockets  
[09.03.16](#) - Collars (clothing); Cuffs (clothing); Embroidery on clothing pockets; Pockets; Pockets, clothing with embroidery or stitching; Sleeves (clothing); Stitching on clothing pockets; Waistband (clothing)  
[26.15.02](#) - Plain single or multiple line polygons; Polygons (plain, single line)  
[26.15.13](#) - More than one polygon  
[26.15.16](#) - Polygons touching or intersecting  
[26.15.28](#) - Miscellaneous designs with overall polygon shape; Polygonal shapes (miscellaneous overall shape)  
[26.17.02](#) - Bands, wavy; Bars, wavy; Lines, wavy; Wavy line(s), band(s) or bar(s)  
[26.17.05](#) - Bands, horizontal; Bars, horizontal; Horizontal line(s), band(s) or bar(s); Lines, horizontal  
[26.17.09](#) - Bands, curved; Bars, curved; Curved line(s), band(s) or bar(s); Lines, curved  
[26.17.25](#) - Other lines, bands or bars

Prior Registration Number(s):  
[404248](#)

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MADRID PROTOCOL INFORMATION

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(NOT AVAILABLE)

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PROSECUTION HISTORY

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**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

- [2012-01-26 - Notice Of Suit](#)
- [2012-01-25 - Notice Of Suit](#)
- [2011-10-05 - Assignment Of Ownership Not Updated Automatically](#)
- [2011-08-17 - Notice Of Suit](#)
- [2011-05-02 - Notice Of Suit](#)
- [2011-05-02 - Notice Of Suit](#)

2011-03-17 - Notice Of Suit

2011-01-14 - Notice Of Suit

2010-12-21 - Notice Of Suit

2010-09-02 - Third renewal 10 year

2010-09-02 - Section 8 (10-year) accepted/ Section 9 granted

2010-09-01 - Case Assigned To Post Registration Paralegal

2010-08-31 - TEAS Section 8 & 9 Received

2010-08-31 - TEAS Change Of Correspondence Received

2010-08-20 - Notice Of Suit

2010-08-16 - Notice Of Suit

2010-06-29 - Notice Of Suit

2010-06-22 - Notice Of Suit

2010-06-09 - Notice Of Suit

2009-09-01 - Notice Of Suit

2009-02-04 - Notice Of Suit

2008-08-04 - Notice Of Suit

2008-05-30 - Notice Of Suit

2008-02-08 - Case File In TICRS

2007-04-24 - Notice Of Suit

2001-08-06 - Second renewal 10 year

2001-08-06 - Section 8 (10-year) accepted/ Section 9 granted

2000-08-24 - Combined Section 8 (10-year)/Section 9 filed

1986-04-10 - Section 8 (6-year) accepted & Section 15 acknowledged

1986-01-16 - Section 8 (6-year) and Section 15 Filed

1986-01-16 - Section 8 (6-year) and Section 15 Filed

1985-09-20 - Post Registration action mailed Section 8 & 15

1985-05-17 - Section 8 (6-year) and Section 15 Filed



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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Correspondent**

Jennifer Gunn  
Levi Strauss & Co.  
Legal Department  
1155 Battery Street  
San Francisco CA 94111  
Phone Number: (415) 501-3433  
Fax Number: (415) 501-7650

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# EXHIBIT C

Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2012-02-13 14:55:18 ET

Serial Number: 78142765 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 2794649

Mark



Standard Character claim: No

Current Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Date of Status: 2009-12-24

Filing Date: 2002-07-10

Transformed into a National Application: No

Registration Date: 2003-12-16

Register: Principal

Law Office Assigned: LAW OFFICE 110

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)

Current Location: M10 -TMO Law Office 110

Date In Location: 2009-12-24

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#### LAST APPLICANT(S)/OWNER(S) OF RECORD

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1. [Levi Strauss & Co.](#)

Address:

[Levi Strauss & Co.](#)

[1155 Battery Street](#)

[San Francisco, CA 94111](#)

[United States](#)

Legal Entity Type: [Corporation](#)

**State or Country of Incorporation:** [Delaware](#)  
**Phone Number:** [\(415\) 501-3433](#)  
**Fax Number:** [\(415\) 501-7650](#)

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**GOODS AND/OR SERVICES**

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**International Class:** [025](#)  
**Class Status:** [Active](#)  
[Pants, jeans, shorts, skirts and jackets](#)  
**Basis:** [1\(a\)](#)  
**First Use Date:** [1873-00-00](#)  
**First Use in Commerce Date:** [1873-00-00](#)

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**ADDITIONAL INFORMATION**

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**Description of Mark:** [The mark consists of a double arcuate design.](#)

**Design Search Code(s):**  
[09.01.02](#) - Embroidery; Labels, clothing; Stitching, not on clothing pockets  
[09.03.16](#) - Collars (clothing); Cuffs (clothing); Embroidery on clothing pockets; Pockets; Pockets, clothing with embroidery or stitching; Sleeves (clothing); Stitching on clothing pockets; Waistband (clothing)  
[26.17.02](#) - Bands, wavy; Bars, wavy; Lines, wavy; Wavy line(s), band(s) or bar(s)  
[26.17.05](#) - Bands, horizontal; Bars, horizontal; Horizontal line(s), band(s) or bar(s); Lines, horizontal  
[26.17.09](#) - Bands, curved; Bars, curved; Curved line(s), band(s) or bar(s); Lines, curved

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**MADRID PROTOCOL INFORMATION**

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(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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- [2011-10-05 - Assignment Of Ownership Not Updated Automatically](#)
- [2011-08-17 - Notice Of Suit](#)
- [2011-05-02 - Notice Of Suit](#)
- [2011-05-02 - Notice Of Suit](#)
- [2011-03-17 - Notice Of Suit](#)
- [2011-01-14 - Notice Of Suit](#)

2010-12-21 - Notice Of Suit

2010-08-20 - Notice Of Suit

2010-08-16 - Notice Of Suit

2010-06-29 - Notice Of Suit

2010-06-22 - Notice Of Suit

2010-06-09 - Notice Of Suit

2009-12-24 - Section 8 (6-year) accepted & Section 15 acknowledged

2009-12-24 - Case Assigned To Post Registration Paralegal

2009-12-16 - TEAS Section 8 & 15 Received

2009-09-01 - Notice Of Suit

2009-02-04 - Notice Of Suit

2008-08-04 - Notice Of Suit

2008-05-30 - Notice Of Suit

2007-06-01 - Case File In TICRS

2003-12-16 - Registered - Principal Register

2003-09-23 - Published for opposition

2003-09-03 - Notice of publication

2003-08-05 - Approved for Pub - Principal Register (Initial exam)

2003-08-05 - Assigned To Examiner

2003-07-07 - Communication received from applicant

2003-07-07 - PAPER RECEIVED

2003-01-13 - Non-final action e-mailed

2003-01-10 - Assigned To Examiner

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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Correspondent**

Levi Strauss & Co.  
1155 Battery Street  
San Francisco CA 94111  
Phone Number: (415) 501-3433

Fax Number: (415) 501-7650

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